

## Senate Bill No. 527

### CHAPTER 701

An act to add Section 10232.2 to, and to add and repeal Section 10232.25 of, the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1997. Filed  
with Secretary of State October 6, 1997.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 527, Rosenthal. Insurance: long-term care.

Existing California law regulates long-term care insurance, and requires that insurance to provide certain benefits.

Existing federal law provides that long-term care insurance is entitled to certain favorable tax treatment if it meets certain requirements.

This bill would provide that if an insurer provides long-term care insurance intended to qualify for favorable tax treatment under federal law, the insurer shall also offer coverage that conforms to the current state eligibility requirements, as specified.

The bill would require insurers to provide a specified notice at the time of solicitation, and a specified notice in the application form.

Certain provisions of the bill would become inoperative upon a finding by the Insurance Commissioner that federal law or regulations, or other relevant federal decisions, allow long-term care coverage that conforms to the California eligibility requirements to qualify for favorable tax treatment, and certain provisions would be repealed on January 1, following that finding. If they do not become inoperative under this provision, they would become inoperative on July 1, 2001, and would be repealed on January 1, 2002, as specified.

The bill would become operative only if AB 1483 and SB 1052 are also enacted.

The bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 10232.2 is added to the Insurance Code, to read:

10232.2. (a) Every insurer that offers policies or certificates that are intended to be federally qualified long-term care insurance contracts, including riders to life insurance policies providing long-term care coverage, shall fairly and affirmatively concurrently offer and market long-term care insurance policies or certificates that

are not intended to be federally qualified, as described in subdivision (a) of Section 10232.1.

(b) All long-term care insurance contracts, including riders to life insurance contracts providing long-term care coverage, approved after the effective date of this section shall meet all of the requirements of this chapter.

(c) Until January 1, 1999, or 90 days after approval of contracts submitted for approval pursuant to subdivision (b), whichever comes first, insurers may continue to offer and market previously approved long-term care insurance contracts.

(d) Group policies issued prior to January 1, 1997, shall be allowed to remain in force and not be required to meet the requirements of this chapter, as amended during the 1997 portion of the 1997–98 Regular Session, unless those policies cease to be treated as federally qualified long-term care insurance contracts. If such a policy or certificate issued on such a group policy ceases to be a federally qualified long-term care insurance contract under the grandfather rules issued by the United States Department of the Treasury pursuant to Section 7702B(f)(2) of the Internal Revenue Code, the insurer shall offer the policy and certificate holders the option to convert, on a guaranteed-issue basis, to a policy or certificate that is federally tax qualified if the insurer sells tax-qualified policies.

SEC. 2. Section 10232.25 is added to the Insurance Code, to read:

10232.25. (a) Each insurer that offers long-term care coverage pursuant to Section 10232.2 shall make available at the time of a solicitation the following notice in a separate document, in 12-point type, to be signed and dated by the applicant and agent or insurer, with a copy provided to the applicant and the original maintained in accordance with paragraph (8) of subdivision (c) of Section 10508:

#### IMPORTANT NOTICE

THIS COMPANY OFFERS TWO TYPES OF LONG-TERM CARE POLICIES IN CALIFORNIA:

(1) LONG-TERM CARE POLICIES (OR CERTIFICATES) INTENDED TO QUALIFY FOR FEDERAL AND STATE OF CALIFORNIA TAX BENEFITS.

AND

(2) LONG-TERM CARE POLICIES (OR CERTIFICATES) THAT MEET CALIFORNIA STANDARDS AND ARE NOT INTENDED TO QUALIFY FOR FEDERAL OR STATE OF CALIFORNIA TAX BENEFITS BUT WHICH MAY MAKE IT EASIER TO QUALIFY FOR HOME CARE BENEFITS.



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(b) The notice required by subdivision (a) shall be made available by employers to employees and dependents who are offered by employers a choice of the two types of policies described and apply for coverage.

(c) The commissioner, after consulting with the Health Insurance Counseling and Advocacy Program, and after issuing a public notice and receiving public comments, may approve modifications to the language in the notice set forth in subdivision (a), if the modifications (1) are warranted based on federal or state laws, federal regulations, or other relevant federal decisions, and (2) are strictly limited to those necessary to ensure that the summary notice required by this section does not provide false or misleading information.

SEC. 3. Subdivision (a) of Section 10232.2 of the Insurance Code, and Section 2 of this act shall become inoperative when both of the following requirements have been met:

(1) The Insurance Commissioner finds by substantial evidence, following one or more public hearings, that federal law or regulations, or other relevant federal decisions, allow long-term care coverage that conforms to the California eligibility requirements of subdivision (a) of Section 10232.8 of the Insurance Code to qualify for favorable tax treatment under Public Law 104-191.

(2) The Insurance Commissioner issues a regulation or order that requires insurers that wish to market and sell long-term care policies to conform to the California eligibility requirements of subdivision (a) of Section 10232.8 of the Insurance Code, and files a notice of that regulation or order with the Secretary of State.

(b) Section 2 of this act shall be repealed on January 1 following the filing of the notice with the Secretary of State under subdivision (a), unless a later enacted statute, that becomes operative on or before that date deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Unless subdivision (a) of Section 10232.2 of the Insurance Code, and Section 2 of this act become inoperative at an earlier date pursuant to Section 3 of this act, subdivision (a) of Section 10232.2 of the Insurance Code, and Section 2 of this act shall become inoperative on July 1, 2001, and as of January 1, 2002, Section 2 of this act shall be repealed, unless a later enacted statute, that becomes operative on or before January 1, 2002, deletes or extends those dates.

SEC. 5. This act shall become operative only if Assembly Bill 1483 and Senate Bill 1052 are also enacted and become effective on or before January 1, 1998.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to immediately make available in California long-term care insurance policies that protect the health of senior citizens and conform to the provisions of the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), it is necessary that this act take effect immediately.

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